

Grounded in History

By Rosemary Harty

The shifting sands of property rights were the solid foundation of new Professor Emeritus Garrett Power's legal scholarship. As he retires, his passion for the world around us carries on.

Professor Garrett Power was studying Maryland's wetlands when marshes were considered no more than mosquito-breeding swamps. And the ordinary citizens in Baltimore neighborhoods are the better for his urban work in zoning and eminent domain.

These seemingly disparate interests of his forty-four-year UMLaw career converge on a single theme: How laws, for better and for worse, shape man's natural and manmade environments.

Professor Power defines his legal scholarship simply: "I'm a property rights guy," he explains. "I try to understand and appreciate how the system of private property works and how that's impacted by the law. In my scholarship, I've tried to use historical and economic analysis to show why various laws and governmental programs failed to accomplish their stated objectives."

He moved from misguided policies that imperiled the Chesapeake Bay to complex stories behind seemingly benign laws. Consider how an effort to control disease,

crime, and overcrowding in Baltimore led to an attempt to impose residential segregation—block by block. His *Maryland Law Review* article in the early eighties contrasted the motives of seemingly progressive civic leaders, such as Mayor J. Barry Mahool, with the thwarted aspirations of black residents seeking a better life.

A Life Of Teaching

Garrett Power, raised in Monkton, came to the law school in 1963, right out of Duke University. His father, Gordon G. Power ('37), enjoyed a long career as a general practitioner of law, and as a politician. He was a reform Republican, the first president of the Baltimore County Council in 1954.

The younger, conflict-averse Power chose legal education over practice. "I was a good enough son to become a lawyer, but I was a wise enough son to know not to go to work for my father," he says.

When the Department of the Interior approached UMLaw for a legal study on the Chesapeake Bay, it was the beginning of a twelve-year journey into environmental law for Power.

"Today, the term 'wetlands' is understood to mean a fragile engine in the ecosystem. In 1970, the term had just been invented. Prior to that, it was a nuisance to be gotten rid of," Power says. That year, he completed his report, "The Chesapeake Bay in Legal Perspective"; he later produced the first draft of Maryland's wetland statute.

But he doesn't consider himself "a card-carrying environmentalist," rather,

a "debunker" of misdirected policies.

"I continue to be interested in the ways in which legal institutions and other agencies try to manage resources," he says. "Their activities may have consequences, some of them intended and some of them unintended. That's sort of the nature of environmental regulation. It reaches for management and order, but the environment is a chaotic thing and government interventions fall short."

The culmination of his environmental work was the book *Chesapeake Waters* (written with John Capper and Frank Shivers), a history of how government regulatory agencies have influenced the quality of the Bay.

In 1980, Power shifted his research and most of his teaching from natural to urban environments: "My research approach is very much the same, but I decided I liked cities better than swamps."

He's written and spoken on the height limitations on Mount Vernon Place, about eminent domain, and ground rents—leading local media to tap him as an expert in recent news stories. His 1983 *Maryland Law Review* article detailed Baltimore's efforts at residential segregation, thoroughly reviewing landmark cases such as *Buchanan v. Warley*, which held *de jure* segregation of





“With tongue in cheek, I can say I’m sort of like Cal Ripken,” Power says. “I wasn’t necessarily that good at teaching; I just got up every morning and went to work.”

residential segregation to be unconstitutional, but also examines historic, sociological, and political factors in Baltimore as well.

But it’s more than property issues that sets him apart from his peers. With characteristic dry humor, with a touch of blatant corniness, he explains his longevity at the law school with a hometown baseball analogy—“With tongue in cheek, I can say I’m sort of like Cal Ripken,” he says. “I wasn’t necessarily that good at teaching; I just got up every morning and went to work. I tried to do as good as I could, and then went to bed at night. But of course, I’m nothing like Cal Ripken.”

Former students such as John Cannan (’00), now assistant law librarian in the circuit court of Montgomery County, notes other Iron Man traits—excellence and modesty among them. Power’s classes offered “a respite from the punishment of Socratic dialogue,” Cannan says. “When you got to his class you weren’t being drilled—it was an intellectual endeavor.” He brought difficult subjects, topics that are boring or dull, like property and land use, and he made them come to life through incidents and episodes. He made it interesting and fun.”

Power suspects that his students perceive him as “quiet and not assertive—no

Kingsfield here.” But, he notes, sometimes “irony in a classroom is a bad idea. If you try to say something in an ironic tone, no matter how obvious, a number of students are going to write it down and think you mean it.”

Still, says Prof. Susan Leviton, Power’s sense of humor and lack of ego endear him to students and colleagues alike. She admires his integrity, his legal mind, and his commitment to “do the right thing.” “He won’t join the bandwagon,” she says. “He has a moral compass, and it’s really a pleasure to see how that plays out.” And, she adds, “He never takes himself too seriously.”

Phil Diamond (’99), now associate attorney with Gallagher Evelius & Jones LLP, cites Power’s influence as one reason he became a property rights attorney. He especially appreciated his ability to show students the “richer drama” of a legal issue, liking sending them into blighted sections of the city to interview residents.

“What he taught us students to perceive was the human story beneath the surface of ...dry, abstract legal records and principles,” he says, “and that’s a valuable lesson for practicing lawyers as well.”

Professor Power plans to keep teaching. His favorite course, Constitutional Limitations on Land Use Control and

Environmental Regulations, examines everything from regulatory takings to pollution controls.

He continues to research property rights issues, especially in eminent domain. Just this year, Power’s expertise was instrumental in shaping the debate as the Maryland General Assembly passed legislation overhauling the antiquated ground rent system.

He’ll also indulge his interest in history by continuing to serve as president of the Westminster Preservation Trust, which oversees Westminster Hall and cemetery. He was involved in the restoration and conversion of the historic property when the law school acquired it from the Presbytery of Baltimore, seeing it through to completion in 1983. The building stands as a visual testament to his civic engagement.

Retiring from full-time teaching will give him more time to spend with his wife, Penny, a retired librarian; his daughters, Kate, Nellie, and Amy, now grown; and his grandson, Garrett, named for his doting granddad. He enjoys carpentry and has projects waiting for him in the family’s home on the Youghiogheny River in Garrett County, not to mention his longtime hobby of squash. I’ve always played as much squash as my body could take.”

Rosemary Harty lives and works in Annapolis, Md.